

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**



75-2149

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

-against-

STEVEN MALTESE,

Defendant-Appellant.

DOCKET No. 75-2149

APPEAL FROM THE UNITED STATES  
DISTRICT COURT FOR THE EASTERN  
DISTRICT OF NEW YORK

APPELLANT'S APPENDIX

ZERIN, COOPER & HORLICK  
Attorneys for Appellant  
MALTESE  
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Of Counsel

HAROLD I. GUBERMAN, Law Assistant



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75C 1980

U.S.A. vs. SANPOGNE, et al

DATE	NR.	PROCEEDINGS
11-18-75		Before JUDD, J. - Case called in 75CR-298. Both witnesses present with counsel. Contempt of Court hearing begun. Hearing concluded. Both witnesses found guilty of contempt of Court by failing wilfully to obey a subpoena. Witness Sampogne sentenced to imprisonment for 40 days and fined \$750. Witness remanded. Fine to be paid within six months. Witness Maltese sentenced to imprisonment for 90 days and fined \$1000. Witness remanded. Fine to be paid within six months. Govt to submit order.
11-19-75		By JUDD, J. - Sentence dtd 11-18-75 for contempt filed. (1)
11-19-75		By JUDD, J. - Memorandum dtd 11-19-75 re contempt hearing filed. (2)
11-25-75	32	Notices of appeal filed. Duplicates mailed to C of A & plff. (3/4)
11-26-75		Before JUDD, J. Case called. Counsel present. Defts not present. Bail application pending appeal--granted. Bail set at \$2500 each.
12/8/75		Certified copy of Order read and filed from the U.S.A. that the record on appeal is to be filed on or before 12/12/75, etc. (5)
12/10/75		Stenographer's transcript of 11/18/75 filed. (6)
12-10-75		Record on appeal certified and mailed to C of A.

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STATEMENT

This action was commenced by a motion by the Hon. David G. Trager for an order pursuant to Rule 17(g) of the Federal Rules of Criminal Procedure holding the appellant in contempt of court.

An indictment was not filed.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

- against -

ROBERT SAMPOGNE and  
STEVEN MALTESE,

Defendants.

ORDER

75 C

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D. N.Y.  
NOV 19 1975

TIME 1:15  
P.M.

On Tuesday, November 18, 1975, the United States of America, by the Honorable David G. Trager, moved before this court, for an order pursuant to Rule 17(g) of the Federal Rules of Criminal Procedure holding the above-named defendants in contempt of court by failing without adequate excuse to obey subpoenas served upon them in October 1975, which subpoenas were issued by this Court in the case of United States of America v. Larry Alfano, 75 CR 298.

After a full hearing and having heard all counsel representing the above-named defendants, the Court has made findings of fact and determined that the defendants ROBERT SAMPOGNE and STEVEN MALTESE, be found in contempt of court in violation of the Federal Rules of Criminal Procedure Rule 17(g). It is further

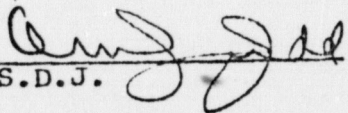
ORDERED that the defendant STEVEN MALTESE be committed as of this date to the custody of the Attorney General or his authorized representative for a period of ninety days and be fined \$1,000 dollars. And, it is also



ORDERED that the defendant ROBERT SAMPOGNE  
be committed as of this date to the custody of the  
Attorney General or his authorized representative  
for a period of forty days and be fined \$750 dollars.  
And it is further

ORDERED that both defendants ROBERT SAMPOGNE  
and STEVEN MALTESE be given not more than six months to  
pay in full the above-mentioned fines.

Brooklyn, New York  
November 18, 1975

  
\_\_\_\_\_  
U.S.D.J.



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----x  
UNITED STATES OF AMERICA :

- against - :

75-CR-298

LAWRENCE ALFANO, :

Defendant. :

-----x  
In the Matter of Proceedings :

for Contempt of Court :

- against - :

STEVEN MALTESE and ROBERT SAMPOGNE. :

November 19, 1975  
-----x

Appearances:

HON. DAVID G. TRAGER  
United States Attorney  
Attorney for United States of America

By: MYLES C. CUNNINGHAM, ESQ.  
JOHN L. CADEN, ESQ.  
Assistant United States Attorneys  
of Counsel

IRA COOPER, ESQ.  
Attorney for Steven Maltese

HERBERT KAPLAIN, ESQ.  
Attorney for Robert Sampogne

J U D D, J

M E M O R A N D U M

This memorandum is intended to amplify the court's  
reasons for the sentences imposed on the witnesses after they

were found guilty of contempt for wilful failure to obey subpoenas.


The witnesses were not casual witnesses subpoenaed without knowledge of why their testimony was desired by the government. As the court knew from the trial of the indictment against Lawrence Alfano for knowing possession of stolen airline tickets, and as both witnesses undoubtedly knew as well, Mr. Sampogne was an owner of the Cross Roads Bar, of which Mr. Alfano was the manager and, according to Mr. Alfano's grand jury testimony, Mr. Sampogne leased the Cadillac which Mr. Alfano drove. Mr. Maltese was a close friend of Mr. Alfano and, according to Mr. Alfano's grand jury testimony, he had obtained airline tickets for Mr. Maltese through his "source."

The testimony of both witnesses might have corroborated the accomplice testimony at the Alfano trial. The absence of the witnesses jeopardized the government's case in the prosecution of the Alfano indictment. The fact that Mr. Alfano was convicted does not lessen the seriousness of the contempt, which should be judged as of the time it was committed.

Mr. Maltese was more culpable than Mr. Sampogne, because he did not appear in court at all and because he resorted to more elaborate subterfuges to avoid being found by the United States Marshals until after the Alfano trial



was completed.

  
U. S. D. J.

Receipt NO. 019447

DEPARTMENT OF JUSTICE

Office of United States Attorney  
ED District of NY

(CHECKS ACCEPTED SUBJECT TO COLLECTION)

Claim Against

US v. Lawrence Alfano  
Robert Sampogne (witness)

U. S. Attorney's No.

751497 75CR298

Amount Received

(\$ 750.00)

From

Agency & File No.

Type Claim

Amt. of Claim

DJ File No.

( ) Pre-judgment

( ) Judgment

( ) Compromise

☒ Paid in full

( ) Partial Pay No.

FINE

\$750.00

Date Payment Received

By

11/21/75

ams

for UNITED STATES ATTORNEY

ORIGINAL-TO PAYER

Receipt NO. 019444

DEPARTMENT OF JUSTICE

Office of United States Attorney  
ED District of NY

(CHECKS ACCEPTED SUBJECT TO COLLECTION)

Claim Against

U.S. v. Lawrence Alfano  
Steven Maltese (Witness)

U. S. Attorney's No.

751497 75CR298

Amount Received

(\$ 1000.00)

From

Agency & File No.

Type Claim

Amt. of Claim

DJ File No.

( ) Pre-judgment

( ) Judgment

( ) Compromise

☒ Paid in full

( ) Partial Pay No.

FINE

\$1000.

Date Payment Received

By

11/21/75

ams

for UNITED STATES ATTORNEY

ORIGINAL-TO PAYER



RECEIVED  
U. S. ATTORNEY

DEC 17 4 03 PM '75

EAST. DIST. N. Y.

*P. Cargmore*



